1751551N25A - SH-AD-32A IOPES (491)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

DATE: March 31, 2004

EXECUTIVE FORCE REVIEW COMMITTEE
FOLICY ASSESSMENT
DISPOSITION SHEET

FILE NO: #2087112

FROM JOHNNY G. JURADO, COMMANDER ROBERT L. BINKLEY, COMMANDER MICHAEL G. SAVIDAN, COMMANDER TO: ERIC B. SMITH, CAPTAIN INTERNAL AFFAIRS BUREAU

SUBJECT:	DEPUTY #			
	BARRACLOUGH, KASON, DEPUTY	#	CENTURY STATION, FOR	2 11
	BAYES, ROBERTO, DEPUTY #	SAFE	STREETS BUREAU, OHS	
	ROGGE, BRIAN, DEPUTY #	SAFE ST	REETS BUREAU, OHS	

On May 1, 2003, Deputies Barraclough, Bayes, and Rogge were conducting a stolen vehicle investigation when they discovered two males inside a nearby parked vehicle. While they were attempting to detain the two males, the driver, Macario Martinez, drove the vehicle at and struck Deputy Deputy was forced to jump onto the hood of the car, then fell from the hood of the car as Martinez continued to drive forward. The vehicle continued to turn directly at Deputy who fired his duty weapon at Martinez. The other three deputies all perceived the danger to Deputy and fired their weapons at Martinez to stop him from assaulting Deputy Martinez was struck several times in the upper torso and was pronounced dead at the scene. The passenger, Julio Nuno, was struck in the arm and groin and was hospitalized.

On March 25, 2004, the Executive Force Review Committee convened and conducted a review regarding the facts of this case. The applicable policies that were evaluated by the committee were: 3-01/025.00, Use of Force; 3-01/025.30, Use of Firearms and Deadly Force; 3-01/025.10, Unreasonable Force; and 3-01/050.10, Performance to Standards. Concerning:

3-01/025.00, Use of Force, 3-01/025.30, Use of Firearms and Deadly Force, and 3-01/025.10, Unreasonable Force, the Committee determined that the force used by all deputies was reasonable and necessary and in compliance with Department policy.

3-01/050.10, Performance to Standards, the Committee determined that the tactics employed by the deputies in this incident were within Department Policy. The Committee directed that tactical issues raised during the meeting be discussed with the involved personnel during a tactical debriefing of

the incident with the Unit Commander. The Committee also directed the Unit Commander ensure that all involved personnel attend updated tactical training.

Johnny G. Jurado, Commander

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DEPUTY INVOLVED SHOOTING FORM

INVESTIGATIVE SUMMARY

EXHIBITS

- A Homicide report, #003-07797-2199-013
 B District Attorney letter
- C Photographs

MISCELLANEOUS DOCUMENTS

- Force/Shooting Review Admonitions
- In-service
- Suspect Nuno's booking information printoutMiscellaneous documents

Los Ar eles County Sheriff's Depretment Officer Involved Shooting

Page 1 of 8

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Officer Involved Shooting

URN: 003-0779702199-013

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Officer Involved Shooting Involved Employee Information

URN ____ 003-0779702199-013

					Page <u>3 of 8</u>
			Involved Employee		
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	Sex: Race	Rank Deputy Sheriff	Unit	Work Assignment (Unit #, Module e	(c)
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	Field Training Officer Emp #	Last Name		First Name	M.I.
	Field Training Officer Emp #	Last Name		First Name	N.I.
E 2	Employee#	Last Name Barraclough		First Name Kason	M.I.
	Sex: Race W	Rank Deputy Sherif	f Century Station	Work Assignment (Unit #, Module, e 217E	
	ShiftTime (circle only one): EM (PM) Day	ShiftType (clircle only one): (Regular) Overline Off Duty	Intoxication/Drug Usage?	Substance Used:	
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	Field Training Officer Emp #	Last Name		First Name	MA
	Field Training Officer Emp #	Last Name		First Name	M.I,
E 3	Employee #	Last Name Bayes		First Name Roberto	M.I. E.
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	Field Training Officer Emp #	Last Name		First Name	M.I.
	Field Training Officer Emp #	Last Name		First Name	M.L

Officer Involved Shooting Involved Employee Information

URN: 003-0779702199-013

4 of 8 Page Involved Employee Last Name First Name M.I. **Employee** E. Brian Rogge Unit Assignment Work Assignment (Unit #, Module, etc.) Sex: Rank Race: W Century GET Deputy Sheriff SSB ShiftTime (circle only one): ShiftType (circle only one): Substance Used: Intoxication/Drug Usage? Regular Overtime Off Duty (PM) Coroner Case # Hospital Name Interviewed? Coroner Case? Hospital Admission? Hrs of sleep prior to shooting: Duty Time (hrs): Other Factors: Clothing (circle only one): Plain Clothes no Vest Raid Jacket w/ Vest 6-8 Plain Cothes w/ Vest 5'09" Raid Jacket no Vest Uniform w/ Vest 177 PPC Qualification Date: Range Qualification Date: Laser Training Date: Number of Prior Shootings: Certification Unit: Prior Shootings? Certified with Weapon Used? Patrol Certification? Field Training Officer Emp# First Name Last Name First Name M.L Field Training Officer Emp# Last Name M.I Last Name First Name Employee# Work Assignment (Unit #, Module, etc.): Unit Assignment: Sex Roce: ShiftTime (circle only one): ShiftType (circle only one): Substance Used: Intoxication/Drug Usage? Regular Overtime Off Duty PM Coroner Case # Hospital Name: Interviewed? [Coroner Case? Hospital Admission? Other Fectors: Hrs of sleep prior to shooting: Duty Time (hrs): Clothing (alrate only one): Plain Ciothes no Vest Raid Jacket w/ Vest Plain Ciothes w/ Vest Uniform no Vest Height: Age: Weight Uniform w/ Vest Raid Jacket no Vest PPC Qualification Date: Range Qualification Date: Laser Training Date: Number of Prior Shootings: Certification Unit: Certified with Weapon Used? Patrol Certification? Prior Shootings? Field Training Officer Emp# First Name Last Name First Name M.L Field Training Officer Emp# Last Name Employee# Last Name First Name MIL Raca: Unit Assignment: Work Assignment (Unit #, Module, etc.): Rank Sex: ShiftTime (circle only one): ShiftType (circle only one): Substance Used: Intoxication/Drug Usage? Regular Overtime Off Duty PM Coroner Case # Hospital Name: Interviewed? Hospital Admission? Coroner Case? Other Factors: Hrs of sleep prior to shooting: Duty Time (hrs): Clothing (circle only one): Plain Clothes no Vest Plain Clothes w/ Veat Uniform no Vest Height: Age: Weight Uniform w/ Vest Raid Jacket no Vest PPC Qualification Date: Range Qualification Date: Laser Training Date: Number of Prior Shootings: Certification Unit: Certified with Weapon Used? Patrol Certification? Prior Shootings? Field Training Officer Emp# First Name M.I. Last Name Field Training Officer Emp# Last Name First Name M.L

Officer Involved Shooting Suspect Information

URN: ____003-0779702199-013

5 of 8 Suspect Information Last Name Martinez First Name Macario \$1 AKA Last Name First Name J.M. Marky-Night Owl Street Address: M Race: Hispanic Home Ph Social Security #: Driver's Licer Work Phone D.O.B. 02/05/1983 Height: 5'10" Weight: CII # 150 Booking # Primary Charge: Secondary Charge N/A Substance Used: Cocaine Coroner Case # 2003-03287 Intoxication/Drug Usage? Coroner Case? Armed? Mental Illness? Criminal History? Apprehended? Vehicle Make Model: 2002 Kia Spectra First Name Julio Last Name Nuno C **AKA Last Name** First Name M.L Street Address Hispanic Driver's Licen Social Security # Work Phone: D.O.B. 09/16/1984 Height: 5'06" Weight: 120 CIL# Primary Charge: 487 (D) (1) PC (convicted) Secondary Charge: 7916-085 Substance Used: Intoxication/Drug Usage? Coroner Case? Armed? Apprehended? Mental Illness? Criminal History Vahicle Make Year: 2002 Kia Spectra First Name M.I. Last Name AKA Last Name First Name MJ. State & Zip Code: Street Address: Sex Race: City Home Phone: Social Security #: Driver's License # Work Phone: D.O.B. Weight: FBI# Height: Age: Booking # Primary Charge: Secondary Charge: Coroner Case # Substance Used: Coroner Case? Intoxitation/Drug Usage? Mental Illness? Criminal History? Armed? Apprehended? Model: Year: Vahicie Make Last Name First Name MJ AKA Last Name First Name Mil State & Zip Code Street Address: Sex: Races City Home Phone: Social Security #: Driver's License #: Work Phone: CII# D.O.B. Height Weight FBI# Booking # Primary Charge: Secondary Charge: Coroner Case # Substance Used: Intoxication/Drug Usage? Coroner Case? Mental Illness? Criminal History? Armed? Apprehended? Model: Vehicle Make

SUPPLEMENTAL NON-EMPLOYET WITNESSES Los Angeles County Sheriff's Department

Page 6 of 8 Non-Employee Witnesses MI First Name Last Name Home Ph Zio Code Work Ph Street Address M.I Last Name First Name Home Ph Zip Code Work Ph Street Address First Name MJ. Last Name Zip Code Work Ph Home Ph Street Address MI First Nam Last Name Zip Code Work Ph Home Pl Siree Address M.I. First Name Last Name Work Ph Street Address First Name Last Name Home Pi Work Ph Street Address M.I. Last Name First Name Zip Code Work Ph Home Ph Street Address M.I. First Name Last Name Zip Code Work Ph Street Address First Name MI Last Name Home Ph Zip Code Work Ph Street Address M.I. First Name Last Name Work Ph Street Address First Name Last Name Home Ph Work Ph Zin Code Street Address M.I. First Nam Last Name Zip Code Work Ph Street Address MJ First Nam Last Name Zip Cod Work Ph Home Ph Stront Address MJ. First Name Last Name Zip Code Work Ph Street Address M.I. First Name Last Name Work Ph Home Ph Zip Code Street Address M.L Last Name First Nam Zip Code Work Ph Street Address

SUPPLEM' NTAL EMPLOYEE ' TNESSES Los Angeles County Sheriff's Department

Page 7 of 8 Employee Witnesses M.I. Last Name First Name Home Ph Work Ph Street Address Zio Code First Name M.I. Last Name Work Ph Street Addre M.I. First Nam Last Name Zip Code Work Ph Home Ph Street Address M.I. Last Name First Nam Home Ph Street Addres Work Ph Zip Code First Nam M.L Last Name Home Ph Zip Code Work Ph Street Address MJ Last Name First Nam Home Ph Zip Code Work Ph Street Address Mil First Name Last Name Work Ph Zip Code Street Address First Nam M.I. Last Name Zip Code Work Ph Home Ph Street Addres M.I. Last Name First Name Zip Code Home Ph Work Ph Street Addres First Name M. Last Name Home Ph Zip Code Work Ph Street Address MIL Last Name First Name Home Ph Zio Code Work Ph Street Addre First Name M.I. Last Name Home Ph Zip Code Work Ph Street Addres MI First Nam Last Name Home Ph Zip Cod Work Ph Street Address M.I. Last Name First Nam Home Ph Zip Code Work Ph Street Address MJ. First Nam Last Name Zin Code Home Ph Street Address Work Ph Last Name First Name MJ. Zio Code Work Ph Street Address

SUPPLEM NTAL EMPLOYEE V"TNESSES Los Argeles County Sheriff's Department

8 of 8 Page Employee Witnessee M First Name Last Name Home Ph Zip Code Work Ph Street Addres MI Last Name First Name Work Ph Home Pt. Street Address M. First Name Last Name Zip Code Work Ph Street Address MT First Nam Last Name Street Address Zip Code Work Ph Last Name First Nami М٠ Street Address Work Ph First Name Last Name Home Ph Zip Code Work Ph Street Address М First Name Last Name Zip Code Work Ph Home Ph Street Address ΜÏ Last Name First Name Street Address Zip Code Work Ph Home Ph M First Name Last Name Home Ph Street Address Zip Code Work Ph Last Name First Name MJ Zip Code Home Ph Street Address Work Ph First Name М Last Name Street Address Zip Code Work Ph Home Ph Mi Last Name First Name Home Ph Street Address Zip Code Work Ph Last Name First Name Street Address Zip Code Work Ph Home Ph ΜĬ Last Name First Name Work Ph Home Ph Street Address Zip Code Last Name First Name Home Ph Street Address Zip Code Work Ph Last Name First Name MI Street Address Zip Code Work Ph Home Ph



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
CURT LIVESAY• Chief Deputy District Attorney
PETER BOZANICH • Assistant District Attorney

DAVID H. GUTHMAN . Director

October 20, 2003

Captain Frank Merriman
Los Angeles County Sheriff's Department
Homicide Bureau
5747 Rickenbacker Road
Commerce, California 90040

RE: J.S.I.D. 03-0340

L.A.S.D. File No. 003-07797-2199-013

Dear Captain Merriman:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the May 1, 2003, fatal shooting of Macario Jesus Martinez and non-fatal shooting of Julio Cesar Nuno by Deputies Kason Barraclough, Robert Bayes and Brian Rogge. The evidence indicates that the deputies acted lawfully in self-defense and the defense of others.

The following analysis is based on reports and photographs prepared by the Los Angeles County Sheriff's Department, Homicide Bureau, submitted to this office on August 6, 2003, by Detective Rick Graves. The District Attorney Command Post was notified of the shooting at 1:22 p.m. Members of the District Attorney Response Team, comprised of Deputy District Attorney Kraig St. Pierre and Senior Investigator responded to the scene. They were given a briefing of the circumstances surrounding the shooting, provided a walk-through of the scene, and participated in the interviews of civilian witnesses. Deputies Barraclough, Bayes and Rogge gave compelled statements to investigators from the Los Angeles County Sheriff's Department. Their statements were paraphrased and considered as part of this analysis.

FACTUAL ANALYSIS

Late in the evening of V	Vednesday, April 30, 2003,	white 1989 Honda
Accord, License	was stolen from the driveway o	f his home at
in the City of	lived at that ac	idress with his
and others. Th	ne theft was reported to the Los Ang	eles County Sheriff's

Captain Merriman October 20, 2003 Page 2

Department. Shortly thereafter accompanied by the began to search for the car in the surrounding area.

Shortly after midnight, the car was found parked against the north curb of East 58th Street between South Naomi and Central Avenues. Elsewhere, was in the process of reporting the theft to Deputies and Kason Barraclough when he received a call telling him that the car had been found. He, along with entered the Sheriff's patrol car so they could be taken to East 58th Street to identify and recover the car. Before driving to the location, Deputies and Barraclough sought the back up of Deputies Bayes and Rogge who were on patrol together. The two patrol units went to the address on East 58th Street.

identified his Honda right away. It appeared the Honda was in the process of being stripped. The deputies parked and exited their cars in order to look for possible suspects. After several minutes of searching, no suspect was found. They did learn, however, that the suspects might be on foot on the west side of Central Avenue. Deputies and Barraclough drove to that area looking for a suspect but were unsuccessful and returned to East 58th Street.

When they returned, moticed Deputies Bayes and Rogge looking inside some cars parked along the south curb line of East 58th Street diagonally across from the stolen Honda. dropped off Deputy Barraclough and parked his patrol car further east on East 58th Street. When he exited he saw that Deputies Rogge, Bayes and Barraclough were surrounding a Kia brand automobile that was parked just behind a Ford Astro van against the south curb of East 58th Street. Deputies Barraclough and Rogge were standing on the driver's side of the Kia with Deputy Bayes on the passenger side. Although he could not see anyone inside the Kia, Deputy decided to assist Deputy Bayes on the passenger side. As he moved closer, was able to see that Macario Martinez, the driver, and Julio Nuno, the passenger, had their seats fully reclined and appeared to be sleeping.

To get to the passenger side, Deputy stepped into the space between the front of the Kia and the rear of the Ford Astro Van. Just as he entered between the two cars, Macario Martinez sprang forward in his seat, turned the ignition, and shifted into gear. The engine surged immediately upon being started and the car lurched forward. Caught in the gap, Deputy thought he was going to be run over. He quickly leapt on to the hood of the car as the Kia pulled northeast away from the curb. The momentum caused to ride up to the base of the windshield and, seconds later, to fall off the car. found himself in the middle of East 58th Street with the car still bearing down on him. As he moved to get out of the way, he heard the report of several firearms. He quickly drew his own handgun and, as he moved out of the way of the oncoming car, fired several times into the passenger compartment. The car made an arc across the street until it collided with the front driver-side quarter-panel of the stolen Honda. On impact the reverse lights of the Kia came on and the car began to reverse course until it slipped back into the same spot against the south curb.

Captain Merriman October 20, 2003 Page 3

All four deputies had fired at the Kia. When they stopped, medical attention was called and the occupants were attended to. Macario Martinez was pronounced dead at the scene. A subsequent toxicological analysis revealed the presence of cocaine in his system at the time of his death. Julio Nuno was taken to Martin Luther King Hospital where he was treated for one through-and-through gunshot wound to his left bicep muscle and a single gunshot wound to his groin. Doctors did not remove the bullet from the latter injury.

Deputy Rogge's, Deputy Bayes' and Deputy Barraclough's statements were largely the same as Deputy version of events. All three explained to investigators how Martinez suddenly sprang forward, started the car, and began to drive. In seconds they each perceived a deadly threat to Deputy and fired their respective weapons into the passenger compartment of the Kia in an effort to make it stop and prevent harm to Deputy
watched the entire event from a short distance away on East 58 th Street. He saw the deputies approach the Kia and observed the two occupants appear to be sleeping. It was his opinion they were hiding from the deputies. watched as the car started suddenly and moved out into the street. It was when the Kia struck Deputy according to that he heard a volley of several shots being fired. He watched as the Kia struck his Honda and reversed course back to its original position against the south curb.
Deputy received minor abrasions as a result of the incident. The right knee area of his uniform pants was torn and the left knee area was stained with dirt or grime.
The Kia in which Martinez and Nuno were seated had been stolen from on April 17, 2003 as it sat in her driveway in the City of
In an interview with investigators, Julio Nuno admitted that he and Martinez stole white Honda and were in the process of stripping it shortly before the deputies arrived. Nuno drove the Honda from the Negrete's driveway while Martinez drove the stolen Kia.
In 2002,
That same year he was also
Francisco Colores

CONCLUSION

The use of deadly force in self-defense or in the defense of another is permitted if it reasonably appears to the person claiming the right of self-defense, or the defense of another, that he actually and reasonably believed that he was in imminent danger of great bodily injury or death. *People v. Williams* (1977) 75 Cal.App.3d 731

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The evidence gathered in this investigation shows that Deputy was standing between the Kia and Ford Astro Van when Macario Martinez started the Kia's engine, shifted into gear and, with the engine surging, began to drive at had no time to get out of the way and, in an instant, had to choose the lesser of two evils – being pinned between the cars or jumping on the hood of the Kia in order to avoid the deadly assault. He chose the latter and, for a time, rode on the hood until, seconds later, he rolled off into the center of East 58th Street. There, he again faced the prospect of being run over by Martinez. This time, along with his three partner deputies, he chose to defend himself. As he backed out of harm's way, was drew his department-issued semi-automatic handgun and, with his three partner deputies, fired at Martinez. Under these circumstances Deputy was legally entitled to defend himself from the attack. Likewise, Deputies Barraclough, Rogge and Bayes were legally entitled to defend their partner from imminent harm or death. Their use of force was reasonable and lawful under the circumstances.

Our file is now closed and we will take no further action in the matter.

Very truly yours,

STEVE COOLEY

District Attorney

By

KRAIG ST. PERRE Deputy District Attorney

(213) 974-5280

Deputy

Deputy Kason Barraclough, #

Deputy Robert Bayes, #

Deputy Brian Rogge, #